

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

DAVID SIDOO et al.,

Defendants

No. 1:19-CR-10080-NMG

**DEFENDANTS' CONSOLIDATED STATUS REPORT RE: DISCOVERY AND
REQUEST TO DELAY THE FILING OF A PROPOSED BRIEFING SCHEDULE FOR
DISCOVERY MOTIONS**

On January 10, 2020, the Defendants and the government filed a Joint Status Report. Dkt. #730. The Status Report suggested a March 13, 2020 deadline for the filing of discovery motions. *Id.* at 4. On January 17, the Court adopted the deadline proposed by the parties. Dkt. #745.

On February 26, 2020, the government disclosed, for the first time, certain exculpatory material (i.e., Singer's "iPhone notes"). The District Court held a hearing on February 27, after which, on March 4, the government provided additional voluminous discovery which the Defendants believe contains additional exculpatory evidence. *See* Letter Regarding Status Report (Dkt. #918) (detailing the evidence to be disclosed by the government). The government produced additional discovery on March 9 (additional information about the iPhone notes), March 16 (204,834 Bates-stamped pages, 1,845 audio files and 81 video files), March 24 (additional text messages between government agents and Mr. Singer), and two days ago on April 1 (a thumb drive containing approximately 230,000 files from Singer's laptop that were referenced in their March 13 letter). The materials provided on April 1 were not Bates-stamped and the government intends to reproduce the April 1 production with Bates stamps. The Defendants continue to

review the voluminous discovery provided by the government and anticipate receiving further discovery from the government in the coming weeks.

On March 8, 2020, the Defendants filed an assented to Motion for Extension of Time to File Discovery Motions. Dkt. #928. The Court allowed that motion on March 9, 2020. *See* Dkt. #930. The Court's March 9, 2020 order stated:

In light of defendants' assented-to motion to revise the schedule for the filing of discovery motions #928, the present deadline of March 13 is suspended, and the defendants may file a proposed schedule for the filing of discovery motions, should one be necessary, as part of the status report they are already required to file on March 20, 2020.

On March 20, 2020 the Defendants filed a status report and request for extension of time to propose a schedule for the filing of discovery motions to April 3, 2020. Dkt. #959. The Court allowed the motion and extended the time to April 3, 2020. Dkt. #961.

As noted, the government has provided a significant volume of discovery in recent weeks. The Defendants are reviewing the discovery. In many instances the Defendants' review of the discovery has prompted further requests to the government. The government has committed to providing emails and documents which the government obtained via search warrants related to several Defendants in this case. These materials are currently being reviewed for privilege, and the government has committed to produce all additional non-privileged material from a variety of different custodians "as soon as possible." Dkt. #918.

Given that there is no date certain by which the government's production will be complete, and the fact that it will take several weeks (if not months) after the government's production for the Defendants to fully review the productions to ensure that the government has satisfied its obligations, Defendants respectfully submit that it is premature to set a final deadline for discovery motions. Consistent with the Court's order (Dkt. #961), the parties will attempt to resolve discovery disputes without the intervention of the Court. In instances where this is not

possible, Defendants propose to file discovery motions on a rolling basis, as was the practice earlier in this case. Defendants currently anticipate that upcoming discovery motions might include, for example, a motion to compel the production of documents the government has withheld on the basis of “privilege” which post-date Mr. Singer’s cooperation with the government and his affirmative consent for the government to monitor his communications.

Due to the government’s recent voluminous productions, the additional productions currently being considered by the government, and the ongoing global pandemic, Defendants request that the April 3, 2020 deadline for the submission of a proposed schedule for the filing of discovery motions be extended to May 8, 2020. This extension will hopefully allow the government to complete its productions, and will allow Defendants time to further review the additional discovery, assess which further discovery motions are necessary, and set a realistic schedule for the briefing of such motions. This extension of the deadline will further benefit all parties and the Court by facilitating efficient adjudication of this matter. Defendants note that, if the government does not complete its productions on a timely basis, Defendants may have to request a further extension.

Defendants accordingly respectfully request that the Court amend the deadline for the filing of a proposed schedule for discovery motions to May 8, 2020 without prejudice to Defendants filing any discovery motions in the interim to the extent such motions are necessary. The government assents to the May 8th date.

Dated: April 3, 2020

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the forgoing was filed electronically on April 3, 2020, and thereby delivered by electronic means to all registered participants as identified on the Notice of Electronic Filing.

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